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GUIDELINE 3.3 OF 2017

GUIDELINES FOR THE OPERATION OF THE INCENTIVE SCHEME FOR INTELLECTUAL PROPERTY CREATORS

OVERVIEW

The Intellectual Property Rights from Publicly Financed Research and Development Act (“IPR Act”) No. 51 of 2008 came into effect on 2 August 2010.

The aim of “Guideline 3.3: Operation of the Incentive Scheme for Intellectual Property Creators” (“Guideline”) is an update on Guideline 3.2 of 2016 which sets out the terms and conditions for the provision of incentives (“Incentive Scheme”) as per the mandate articulated in section 9(4)(b) which states:

“NIPMO must, furthermore....(b) provide incentives to recipients and their intellectual property creators, to reward them for proactively securing protection for intellectual property and commercialising it and, generally, for promoting innovation.”

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1. LIST OF ACRONYMS USED

HEI	Higher Education Institution
IP	Intellectual Property (see IPR Act and Guideline 1)
IPR	Intellectual Property Rights (see Guideline 1)
IPR Act	Intellectual Property Rights from Publicly Financed Research and Development Act No 51 of 2008
NIPMO	National Intellectual Property Management Office
OTT	Office of Technology Transfer
R&D	Research and Development

2. BACKGROUND

The National Research and Development (R&D) Strategy of 2002, emphasises the need to encourage the protection and commercialisation of innovations based on publicly financed research. The need to increase the number of patent applications filed and patents granted for such innovations is recognised, so that these innovations can be ultimately commercialised. The role of new plant varieties is equally acknowledged and hence the importance of increasing the number of Plant Breeders' Rights (PBRs) filed and granted.

It is against this background, and as per the legislative mandate set out above, that the Incentive Scheme for Intellectual Property Creators has been established by the National Intellectual Property Management Office.

3. PURPOSE AND SCOPE OF THE INCENTIVE SCHEME

3.1 The purpose of the Incentive Scheme is to recognise and acknowledge the following individuals at publicly funded research institutions (in particular Higher Education Institutions (HEI) and Schedule 1 Institutions (as per the IPR Act):

3.1.1 inventors who are granted patents for their innovations, at the South African Patent Office

3.1.2 breeders who are granted PBR's for their plant varieties by the registrar of PBRs at the Department of Agriculture, Forestry and Fisheries.

3.2 The Incentive Scheme is applicable to each granted South African patent, which cites a Higher Education Institution and/or a Schedule 1 Institution, as patentee/ co-patentee, assignee/ co-assignee of the invention claimed in the granted patent. The Incentive Scheme aims to recognise and acknowledge individual inventors at eligible Higher Education Institutions and/or a Schedule 1 Institutions that have rights to granted patent(s) during the year 2016, i.e. for patents granted during the period 1 January 2016 to 31 December 2016.

3.3 The Incentive Scheme is also applicable to each granted South African PBR, which cites a Higher Education Institution and/or a Schedule 1 Institution as an applicant or holder of such granted PBR. The Incentive Scheme recognises and acknowledges individual breeders at eligible Higher Education Institutions and/or Schedule 1 Institutions that have rights to granted PBR's during the year 2016, i.e. for PBRs granted during the period 1 January 2016 to 31 December 2016.

3.4 NIPMO reserves sole discretion to alter the scope and structure of the Incentive Scheme, including the form of the recognition and any other matter, subject to any considerations, with due notice.

4 RECOGNITION UNDER THE INCENTIVE SCHEME

4.1 An inventor(s) or breeder, at a Higher Education Institution and/or Schedule 1 Institution will under the Incentive Scheme, and subject to compliance to the conditions set out hereunder, be awarded a Certificate of Recognition, acknowledging their contribution to the invention/ new plant variety that is the subject of the granted patent right or plant breeders' right.

4.2 NIPMO will through the Offices of Technology Transfer (OTTs), where available, otherwise, through the Office of the Deputy Vice-Chancellor for Research or similar, ensure that the inventor(s) or breeder(s) receive the recognition certificate.

5. AWARD CONDITIONS

5.1 The Higher Education Institution and/or Schedule 1 Institution shall certify that they are satisfied that the inventors are indeed the complete set of inventors for the patent and that each cited inventor has demonstrated a clear inventive contribution to the invention covered by the patent.

5.2 The Higher Education Institution and/or Schedule 1 Institution shall, where a PBR has been granted, certify that the breeders are a complete set of breeders and that each breeder has contributed to the plant variety covered by the PBR

5.3 The inventor(s) and breeder(s) must undertake to use his/her/their best efforts to assist the Institution to commercialise the patent and/or PBR .

5.4 The Higher Education Institution and/or Schedule 1 Institution shall comply with the reporting obligations with regards to the IP subject to the award, as appropriate and legislatively mandated.

Please do not hesitate to contact NIPMO (info@nipmo.org.za; 012 844 0222) should you have any questions with regards to any matter in this Guideline.



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HEAD: NIPMO

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